

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:03CR32
vs.)	
)	ORDER
JOHNATHON JEANELLE CAIN,)	
)	
Defendant.)	

Defendant Johnathon Jeanelle Cain (Cain) appeared before the court on April 9, 2007, on the Petition for Warrant or Summons for Offender Under Supervision (Report) (Filing No. 24). Cain was represented by Assistant Federal Public Defender David M. O'Neill and the United States was represented by Assistant U.S. Attorney Frederick D. Franklin. Through his counsel, Cain waived his right to a probable cause hearing on the Report pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Report alleges probable cause, and Cain should be held to answer for a final dispositional hearing before Chief Judge Joseph F. Bataillon. The government moved for detention. Cain requested a detention hearing. Cain again appeared before the court on April 12, 2007, for a detention hearing. Cain was represented by Assistant Federal Public Defender David M. O'Neill and the United States was represented by Assistant U.S. Attorney Frederick D. Franklin. Cain proposed that he be released to the third-party custody of his uncle, Samuel Thomas. Mr. Thomas testified he would supervise Cain and seek to have Cain employed with a Habitat for Humanity construction project which Mr. Thomas supervised. Cain presented no other evidence. It is Cain's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community. In light of Cain's fugitive status since August of 2006, his use of controlled substances, his absconding from supervision, his previous criminal record, the court finds Cain's proposed release plan has failed to carry his burden, and Cain should be detained pending a dispositional hearing before Chief Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Chief Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 10:30 a.m. on April 19, 2007**. Defendant must be present in person.

2. Defendant Johnathon Jeanelle Cain is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 12th day of April, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge